

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)

Pine View Plating Company)
Mineral City, Ohio)

Respondent)

DOCKET No.

CAA-5- '99 - 0 4/10

PRO

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CONSENT AGREEMENT AND FINAL ORDER

WHEREAS, Complainant, the Acting Director, Air and Radiation Division, United States Environmental Protection Agency, Region 5, ("EPA") and Respondent, Pine View Plating Company ("Pine View"), the Parties herein, wishing to settle all matters pertaining to this case, and having consented to the entry of this Consent Agreement and Final Order ("CAFO"); NOW, THEREFORE, before the taking of any testimony, without an adjudication of any issues of law or fact herein, or an admission of liability or any specific question of fact or law by Respondent, the Parties consent to the entry of, and agree to comply with the terms of, this CAFO.

I. Preliminary Statement

1. Respondent Pine View owns and operates a facility located at 4529 New Cumberland Road, Mineral City, Ohio 44656.

2. At its facility, Pine View owns and operates two hard chrome electroplating tanks.

3. Pine View's hard chromium electroplating tanks are subject to the requirements for existing hard chrome electroplating tanks contained in the

National Emission Standard for Chromium Emissions from Hard and Decorative Electroplating and Chromium Anodizing Tanks ("Chrome Plating NESHAP"), found at 40 C.F.R. Part 63, Subpart N.

4. The Complainant instituted this civil administrative proceeding for the assessment of a civil penalty pursuant to Section 113(d) of the Clean Air Act ("CAA" or "Act"), 42 U.S.C. § 7413(d), and Section 22.13 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22, at 64 Fed. Reg. 40138 (July 23, 1999), by simultaneously issuing an Administrative Complaint and Notice of Proposed Order Assessing a Penalty against the Respondent.

5. The Complaint, which is fully incorporated herein by reference, alleges that Pine View failed to conduct a performance test for the control equipment existing at its facility by the July 25, 1997 deadline, in violation of the requirements of 40 C.F.R. § 63.7(a)(2)(iii), subjecting Pine View to the assessment of a civil penalty pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

6. The Complaint proposed that Respondent be assessed a civil penalty of \$1,500 calculated in accordance with Section 113(e) of the Act, and with reference to the "Clean Air Act Stationary Source Civil Penalty Policy" (October 25, 1991) ("Penalty Policy").

7. As a result of information exchanged during settlement negotiations, EPA and Pine View agree that resolution of this matter through entry of this CAFO is an appropriate means of resolving this matter and have agreed to enter into this CAFO.

8. This CAFO is intended to fully resolve this matter; Pine View will not be required to file an Answer to the Complaint.

9. This CAFO is issued to conclude the administrative penalty matter initiated by the EPA Complaint simultaneously issued to Respondent.

II. General Terms of Settlement

10. Respondent admits that EPA has jurisdiction over the matter, admits the findings of fact and conclusions of law in the Complaint, agrees that settlement of this action is in the best interests of the parties and in the public interest, and consents to the terms of this CAFO as set forth herein.

11. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint or this CAFO, and waives any and all rights to appeal this settlement and/or CAFO.

12. Respondent certifies that it is now in compliance with the Act and the requirements of 40 C.F.R. 63, Subpart N.

13. Pursuant to Section 113(e) of the Act, and based on the foregoing, the nature of the violations alleged in the Complaint, information exchanged by the parties, consideration of the steps Respondent took to achieve compliance, the fact that Respondent had applied for an extension of the

testing deadline, Respondent's financial condition, Respondent's prompt and cooperative resolution of this penalty matter, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of \$1,000. Complainant herein accordingly mitigates the proposed penalty amount and Respondent is hereby assessed a penalty in the amount of \$1,000.

14. Respondent agrees to the assessment of a civil penalty as provided in this CAFO for the violations alleged in the Complaint.

III. Penalty Payment

15. Respondent shall pay the civil penalty by forwarding a cashier's or certified check payable to the order of the "Treasurer of the United States of America," in the appropriate amount, to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

The check shall bear the case docket number set forth on the Complaint.

16. A transmittal letter, indicating Respondent's name, complete address, and this case docket number must accompany the payment. Respondent shall send a copy of each check and transmittal letter to:

- 1) Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard (MF-19J)
Chicago, Illinois 60604;

- 2) Newton Ellens

Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard (AE-17J)
Chicago, Illinois 60604; and

- 3) Andre Daugavietis
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard (C-14J)
Chicago, Illinois 60604.

17. Respondent's failure to timely comply with any material and substantial provision of this CAFO shall render the entire unpaid portion of the assessed penalty of \$1,500 immediately due and payable, together with all accrued interest. Such failure may also subject Respondent to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413 (d)(5), to collect any unpaid portion of the assessed penalty, together with interest, handling charges and nonpayment penalties as set forth below. In any such collection action, the validity, amount and appropriateness of this CAFO or the penalty and charges assessed hereunder shall not be subject to review.

18. Late Payment Provisions. Pursuant to 42 U.S.C. § 7413(d)(5) and 31 U.S.C. §§ 3717, 3731, Respondent shall pay interest and penalties on debts owed to the United States and a charge to cover the costs of debt collection, including processing and handling costs and attorneys fees. If the civil penalty is not paid pursuant to the terms of this CAFO, Respondent shall pay the following amounts:

- a. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) [see 4 C.F.R. § 102.13(c)] from the date a copy of this CAFO as issued is mailed to Respondent, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the date a such copy of this CAFO is mailed to

Respondent. In addition, no interest shall be payable on any portion of the assessed penalty that is suspended and deferred and is not subsequently required to be paid.

b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid for any month in which any portion of the assessed penalty is more than 30 days past due.

c. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(5), should Respondent fail to pay on a timely basis the full amount of the assessed penalty, interest and handling charges, Respondent shall be liable to pay the United States' enforcement and collection expenses, including but not limited to attorney fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent (10%) of the aggregate amount of Respondent's outstanding or overdue penalties and nonpayment penalties accrued from the beginning of such quarter.

V. General Provisions

19. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA and other Federal, state or local laws or statutes.

20. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

21. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

22. Nothing in this CAFO shall be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

23. This CAFO represents a full and final settlement of any and all claims by EPA against Respondent arising from the Complaint.

24. This CAFO shall be binding upon all Parties to this action, and their successors and assigns. The undersigned representative of each Party to this CAFO certifies that he or she is duly authorized by the Party whom he or she represents to enter into the terms and bind that Party to them.

25. Each party shall bear its own costs, attorney fees and disbursements in this action.

26. This CAFO constitutes the entire agreement between the parties.

27. Respondent and EPA agree to issuance of the accompanying Final Order.

In the Matter of: Pine View Plating Co.

Docket No. : CAA-5-99-044 *JB*

The foregoing Consent Agreement is Hereby Stipulated, Agreed, and Approved for Entry:

U.S. ENVIRONMENTAL PROTECTION AGENCY,
COMPLAINANT

Date: 9/23/99

By: *[Signature]* *FOR*

Margaret Guerriero, Acting Director
Air and Radiation Division
Region 5
U.S. Environmental Protection Agency

PINE VIEW PLATING CO.
RESPONDENT

Date: 9-21-99

By: *[Signature]*

Ron Shaw, Owner
Pine View Plating Co.

CAA-5-99-044 *JB*

In the Matter of: Pine View Plating Co.
Docket No.

CAA-5- '99-0461 *JS*

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent, Pine View Plating Co., is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement, effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31 [64 Fed. Reg. 40138 (July 23, 1999)].

Dated: 9/27/99

Francis X. Lyons

Francis X. Lyons
Regional Administrator
Region 5
U.S. Environmental Protection Agency

CERTIFICATE OF MAILING

I hereby certify that an original draft of the foregoing Consent Agreement and Final Order (CAFO) Assessing Administrative Civil Penalties Against Pine View Plating Co., Docket No. CAA-5-99-049 was sent by Certified Mail, Return Receipt Requested, to:

Ron Shaw, Owner
Pine View Plating Company
4529 New Cumberland Road
Mineral City, Ohio 44656

I certify that copies of the CAFO were sent by first class mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
1600 Watermark Drive
Columbus, Ohio 43215-1034

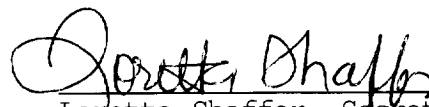
Fred Klingelhafer, APC Supervisor
Southeast District Office
Ohio Environmental Protection Agency
2195 Front Street
Logan, Ohio 43138

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I certify that an original draft of the CAFO was hand-delivered for filing to:

Regional Hearing Clerk
77 West Jackson Boulevard
Chicago, Illinois 60604

on the 29th day of September, 1999.



Loretta Shaffer, Secretary
ARD/AECAB/AECAS (MN/OH)

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Certified Mail Article Number